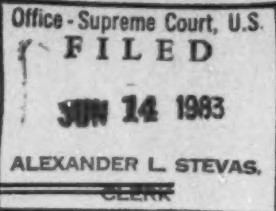


No. 82-1816



In the Supreme Court of the United States

October Term, 1982

STATE OF OHIO,
Petitioner,

vs.

ANTHONY LIBERATORE,
Respondent.

**BRIEF FOR THE RESPONDENT
IN OPPOSITION**

ELMER A. GIULIANI, *Counsel of Record*
MARK R. DEVAN

410 Leader Building
Cleveland, Ohio 44114
(216) 241-0520

Attorneys for Respondent

JOHN T. CORRIGAN
Cuyahoga County Prosecutor

ALBIN LIPOLD
Assistant Prosecuting Attorney
Courts Tower - Justice Center
1200 Ontario Street
Cleveland, Ohio 44113
(216) 443-7817

Attorneys for Petitioner

**PETITIONER'S QUESTIONS PRESENTED
FOR REVIEW**

- I. Whether in a trial wherein the accused stands charged with aggravated murder (felony murder) and aggravated arson (the underlying felony), and the jury returns a verdict of not guilty as to the underlying felony, and was unable to reach a verdict (hung jury) on the charge of felony murder, the verdict of acquittal automatically bars retrial on the count wherein the jury was unable to reach a verdict because of the double jeopardy provisions of the Constitution?
- II. If the jury could have grounded its verdict in one offense on an issue other than that which the defendant seeks to foreclose from consideration as to the separate offense, then, would a retrial on the second offense constitute double jeopardy where the majority of the reviewing courts do not follow the prior dictates of this court in making such determination?
- III. Whether in criminal cases, the doctrine of collateral estoppel is to be employed with a hypertechnical approach? Should the reviewing court examine the entire record of the prior proceedings to determine if a jury could have founded its verdict on a rational basis that would not preclude retrial for a separate offense? This, despite a substantial overlap in the proof necessary to establish two or more crimes.

TABLE OF CONTENTS

Table of Authorities	III
Opinions of the Courts Below	1
Jurisdiction	2
Judicial History of the Case	2
Reasons for Not Granting a Writ of Certiorari	3
Statement of the Case	4
Argument	9
Conclusion	16
Appendix:	
Indictment, <i>State of Ohio v. Thomas Lanci, et al.</i> , Cuyahoga County Common Pleas Court Case No. CR 38130	A1
Constitution of the State of Ohio, Article I, Sec- tion 10	A5

TABLE OF AUTHORITIES

Cases

<i>Ashe v. Swenson</i> , 397 U.S. 436 (1970)	9
<i>Blockburger v. United States</i> , 284 U.S. 299 (1932)	9
<i>Harris v. Oklahoma</i> , 433 U.S. 682 (1977)	9
<i>State v. Liberatore</i> , 4 Ohio St. 3d 13 (1983)	1
<i>State v. Young</i> , 62 Ohio St. 2d 370 (1980)	2

Constitutional Provisions

United States Constitution, Fifth Amendment	3
---------------------------------------------------	---

Statutes

Ohio Revised Code §2903.01	2, 9
Ohio Revised Code §2909.02	2
Ohio Revised Code §2923.04	2
28 United States Code §1257(3)	2

No. 82-1816

In the Supreme Court of the United States

October Term, 1982

STATE OF OHIO,
Petitioner,

vs.

ANTHONY LIBERATORE,
Respondent.

**BRIEF FOR THE RESPONDENT
IN OPPOSITION**

To: The Honorable, the Chief Justice and the Associate
Justices of the Supreme Court of the United States:

OPINIONS OF THE COURTS BELOW

The opinion of the Supreme Court of Ohio, 4 Ohio St. 3d 13 (1983), is contained in Petitioner's Appendix A1 through A6.

The opinion and journal entry of the Court of Appeals of Cuyahoga County, Ohio, Eighth Judicial District, is contained in Petitioner's Appendix A7 through A29.

The decision of the Court of Common Pleas and accompanying journal entry are contained in Petitioner's Appendix A30 through A34.

JURISDICTION

The judgment of the Supreme Court of Ohio was entered on March 9, 1983. A petition for a writ of certiorari was filed on May 3, 1983. Petitioner invokes jurisdiction pursuant to Title 28 United States Code §1257(3).

JUDICIAL HISTORY OF THE CASE

The respondent, Anthony Liberatore, was charged by the Grand Jury of Cuyahoga County in a three count indictment alleging aggravated arson in violation of Ohio Revised Code §2909.02, aggravated murder in violation of Ohio Revised Code §2903.01, and engaging in organized crime in violation of Ohio Revised Code §2923.04 (see Appendix A1 through A3). Prior to trial, the court dismissed the charge of engaging in organized crime pursuant to the authority of *State v. Young*, 62 Ohio St. 2d 370 (1980). Specifications included in the charge of aggravated murder but stricken by the court prior to trial alleged that said homicide occurred in perpetration of aggravated arson and for hire.

The respondent was separately tried in a six week trial beginning September 29, 1980.

Following instructions by the trial court and five days of deliberations, the jurors indicated that they had reached a verdict on one count but were unable to reach a verdict on the remaining count. The court instructed the jurors to deliberate further and on November 12, 1980 they again reported that they were unable to reach a verdict on the remaining count. The court thereupon accepted the jurors' verdict of not guilty as to Count I, aggravated arson, and declared a mistrial on the remaining count of aggravated murder and dismissed the jury.

The respondent subsequently filed a motion for judgment of acquittal, motion to dismiss, and plea of former jeopardy. On February 6, 1981, the trial court denied respondent's motion. Respondent sought review of that order in the Court of Appeals for Cuyahoga County, the Eighth Judicial District. On January 14, 1982, the Court of Appeals for Cuyahoga County reversed the ruling of the trial court and held that the double jeopardy clause of the Fifth Amendment to the United States Constitution barred further prosecution as to the charge of aggravated murder. The State of Ohio then appealed to the Ohio Supreme Court to review and reverse the judgment of the Court of Appeals. On March 9, 1983, the Supreme Court of Ohio affirmed the decision of the Court of Appeals of Cuyahoga County barring further prosecution of the respondent.

The State of Ohio has now petitioned for a writ of certiorari to the Supreme Court of Ohio.

REASONS FOR NOT GRANTING A WRIT OF CERTIORARI

- I. The Opinion of the Supreme Court of Ohio Held That the Fifth Amendment Prohibition Against Double Jeopardy Would Be Violated If Respondent Were Retried on the Charge of Aggravated Murder.
- II. The Supreme Court of Ohio, in Its Opinion, Interpreted the Ohio Statutory Felony Murder Provisions in Favor of the Respondent and the Holding of the Supreme Court of Ohio Grants the Respondent a Final Interpretation of Said Felony Murder Statutes in His Favor.

- III. The Supreme Court of Ohio Based Its Decision on Both the Federal Constitution and the Constitution of the State of Ohio and Held That Under Both Constitutions and Well-Established Precedents of the United States Supreme Court That Retrial of the Respondent Is Barred.
- IV. The Opinion of the Supreme Court of Ohio Should Be Given Deference As a Final Ruling in Favor of a Citizen of Ohio on the Ohio Statutory and Constitutional Framework and Supporting State Case Law.
- V. The United States Supreme Court Has Established Well-Settled Precedents Governing the Application of the Fifth Amendment Protection Against Double Jeopardy and the Opinion of the Supreme Court of Ohio, Being in Conformity Therewith, Should Not Be Disturbed.
- VI. The Respondent Was Tried and the Jury Deliberated on Every Theory of Culpability Available in Law and No New Theory of Culpability Is Available Upon Which to Retry the Respondent.

STATEMENT OF THE CASE

The state presented evidence at trial that on October 6, 1977, Daniel Greene was killed by an explosion while entering his car at Brainard Place, Lyndhurst, Ohio.

The events leading up to the death of Daniel Greene were offered through three primary witnesses: Raymond Ferritto, Louis Aratari, and Renaldo Giuliani aka Ronald Guiles.

Raymond Ferritto testified that he was first contacted by James Fratianno to come to Warren, Ohio from his residence in Erie, Pennsylvania in 1976. Ferritto traveled to Warren, Ohio and met with Fratianno and Anthony Delsanter. At this and subsequent meetings he plotted with various others to kill Greene. Ferritto learned that Greene and John Nardi had been interfering with gambling, loansharking and related nefarious activities in Northeast Ohio and that various people wanted him out of the way. Among those that Ferritto testified wanted Greene killed were Jack White aka James Licavoli, Anthony Delsanter aka Tony the Dope, and Pasquale Cisternino aka Butchie. Raymond Ferritto was promised that in exchange for killing Daniel Greene he would receive a lump sum of money or be initiated into an organization known as "Our Thing."

Ferritto testified further that he stalked Greene but could not seem to locate him to finish his task. Among the things he did was to listen to tape recordings of telephone conversations obtained by a tap on Greene's telephone and to follow information thereby obtained. Ferritto also learned that the respondent was going to set up a meeting with Greene and that he could go to the meeting and identify Greene.

Ferritto testified he worked with Pasquale Cisternino aka Butchie, and Ronald Carabbia in trying to locate Greene to kill him. At one time, according to Ferritto's testimony, he learned from Cisternino that an attempt was made to kill Greene by placing a remote control bomb in the car of Greene at Cleveland Hopkins Airport; purportedly they waited for Greene's return from a trip and attempted to detonate the bomb. This too failed. Ferritto, along with Cisternino, placed a bomb outside the entrance door to the

apartment building of Daniel Greene hoping to kill Greene while entering or leaving that building but for various reasons never used that device.

Ferritto was provided with an automobile, which supposedly could not be traced, for use in following Greene. This automobile was provided by Carabbia and Cisternino. He also received a copy of Cleveland Magazine with a photo of Greene for identification purposes and Greene's automobile license number from Cisternino. Ferritto learned that two other men were to help him kill Greene. While at the Ramada Inn with Cisternino and Carabbia, he was introduced to Louis Aratari and Ronald Guiles by John Calandra. It was made known to Ferritto that Aratari and Guiles worked for the respondent, Anthony Liberatore. Ferritto had been previously assured by Fratianno that Liberatore was "one of us." Subsequently, Aratari and Guiles met again with Ferritto, Cisternino and Carabbia. It was planned that they would act as a "back-up team" to Ferritto and to shoot Greene with a rifle if Ferritto failed to kill him.

On October 6, 1977, Ferritto and Carabbia placed a "bomb car" next to Greene's automobile in the Brainard Place parking lot. Present were Aratari and Guiles, who had failed just prior to that to shoot Greene with a rifle. Aratari and Guiles were ordered to leave. As Daniel Greene entered his automobile at approximately three-thirty p.m., Carabbia triggered the explosion which killed Greene and he then fled the scene with Ferritto driving.

Louis Aratari testified that he first met the respondent, Anthony Liberatore, through a mutual acquaintance, Anthony Delmonte, Sr., who introduced him to Liberatore for purposes of finding employment. Thereafter, Aratari alleged in testimony that he did "jobs" for the respondent,

including the burning of a building for insurance purposes. Aratari then testified that, while working as a security man at one of several clambakes, Thomas Lanci approached him in reference to killing Daniel Greene. Thereafter, while at a wedding for Kenneth Ciarcia's stepdaughter, a conversation was had between Thomas Lanci, Kenneth Ciarcia, Louis Aratari, Ronald Guiles and the respondent, during which Aratari and Guiles agreed to assist in killing or to kill Daniel Greene and plans were made as to how the murder would be accomplished. Allegedly, weapons were furnished by Thomas Lanci, automobiles were furnished by Kenneth Ciarcia through his place of employment at Crossroads Lincoln Mercury, and he assumed money was to be provided from James Licavoli aka Jack White, through the respondent.

Aratari testified that he met the respondent on two occasions at an Amy Joy Restaurant. Liberatore was in his automobile and Guiles joined them. At these meetings Liberatore said, according to Aratari, that Jack White wanted Greene killed soon. Further, Aratari purportedly was led to believe that he, Lanci, and Liberatore, would "take over Cleveland." Aratari took this to mean that they would control certain illegal activities in the Cleveland area. Further promises included that Aratari would never have to worry about money again and that he would be well respected in Cleveland.

Aratari corroborated Ferritto's testimony that they met him through John Calandra at the Ramada Inn and that he subsequently acted as a back-up team along with Guiles at Brainard Place the day Daniel Greene was killed. Aratari testified he was contacted by Carabbia on October 5, 1977 and ordered to be present with Guiles at Brainard Place on October 6 to help kill Greene. Further, Aratari

testified that he was told by Liberatore following the death of Daniel Greene, that next they should "get" the "Irish Crew" or close associates of Greene.

Following the death of Daniel Greene, Aratari testified he was given clothes by Thomas Lanci, an automobile by Kenneth Ciarcia, and money which he divided with Guiles for their role in the killing of Greene.

Ronald Guiles aka Renaldo Giuliani, testified that he was contacted by Aratari to accompany him to do what he believed to be collection work. After a period of time he learned that actually Aratari was trying to locate an individual or individuals unknown to him. Eventually Guiles was taken to the wedding of Ciarcia's stepdaughter by Aratari, met with Thomas Lanci, Kenneth Ciarcia and the respondent, and agreed to locate and kill Daniel Greene. In preparation for this task, Guiles corroborated Aratari's testimony that he went to the Arthur Murray Dance Studio to pick up a rifle to use in killing Greene. This was arranged by Thomas Lanci. Further, Guiles signed a false name on a title to an automobile supplied by Ciarcia, met with Aratari and the respondent at an Amy Joy Restaurant as Aratari had previously testified, and met Ferritto, Carabbia and Cisternino at the Ramada Inn to plan this murder. Guiles likewise testified that he was present with Aratari, Ferritto and Carabbia at Brainard Place on October 6, 1977, but left prior to the explosion which killed Greene.

ARGUMENT

The decision of the Supreme Court of Ohio is correct and conforms with prior decisions of this Court. Accordingly, review by the United States Supreme Court is not warranted.

I

The petitioner contends that the respondent should be retired on the charge of murder. The petitioner cites *Blockburger v. United States*, 284 U.S. 299 (1932), as controlling. However, the same transaction test of *Blockburger* has been superseded here by the doctrine of collateral estoppel.

The Supreme Court of Ohio, in its majority opinion which held in favor of the respondent, noted that the doctrine of collateral estoppel bars relitigation "... where the second prosecution requires relitigation of factual issues already resolved by the first." Opinion of the Supreme Court of Ohio, Petitioner's Appendix A4 citing *Ashe v. Swenson*, 397 U.S. 436 (1970), and *Harris v. Oklahoma*, 433 U.S. 682 (1977). The Supreme Court of Ohio further noted that retrial of the respondent would require relitigation of the aggravated arson offense as essential to proof of aggravated murder since both offenses arose out of the same alleged criminal conduct. Under the facts of the present case, the Supreme Court of Ohio held retrial was barred by the doctrine of collateral estoppel.

In its analysis, the Supreme Court of Ohio interpreted Ohio Revised Code §2903.01(B), the Ohio felony murder statute. The court held that, "Any inquiry into Liberator's participation in the alleged conspiracy to murder Greene would necessarily require proof that appellee [Liberator] had committed aggravated arson, an offense of

which he had been previously acquitted." Petitioner's Appendix A4 through A5.

The Supreme Court of Ohio also analyzed the indictment as drawn. The court noted that not only the facts of this case and the Ohio statutory murder provision would preclude retrial, but that the indictment in this case prohibits retrial. The indictment, Respondent's Appendix A1 through A3, charged that Anthony Liberatore "... unlawfully and purposely caused the death of another, to wit: Daniel J. Greene, while committing or attempting to commit, or while fleeing immediately after committing or attempting to commit Aggravated Arson." Respondent's Appendix A2. The Ohio Supreme Court stated in its opinion that not only would the Ohio statutory requirement of a felony murder necessitate a relitigation of the underlying felony but "so too does the language of the instant indictment." Petitioner's Appendix A4 and Respondent's Appendix A2.

The Ohio Supreme Court, in its opinion, interpreted the Ohio felony murder statute in the respondent's favor. Also, the court applied well-established legal principles long settled by both this Court and the Supreme Court of Ohio interpreting both the United States Constitution and the Constitution of the State of Ohio.

Further litigation and review of the issues presented in the petition of the State of Ohio is unnecessary and would only serve to confound well-established constitutional precedent. The Supreme Court of Ohio has spoken in its interpretation of the state felony murder statute and the Constitution of the State of Ohio in favor of one of its citizens. The wisdom of the Supreme Court of Ohio in extending constitutional rights in favor of an accused and in accordance with prior rulings of this Court, should not be disturbed.

II

The petitioner claims in the second and third arguments that a writ of certiorari should be granted because a jury could have founded its verdict on a basis other than that which would cause a retrial of the same issues. To this point respondent notes that both the Court of Appeals of Cuyahoga County and the Supreme Court of Ohio agreed with respondent's contention that all available theories of culpability were presented to the trial jury for its deliberations. See opinion of the Supreme Court of Ohio, Petitioner's Appendix A2 and A3, and the opinion of the Court of Appeals of Cuyahoga County A12 through A15.

The State of Ohio urges upon this Court the dissenting opinion of one judge of the Court of Appeals and two justices of the Supreme Court of Ohio. These dissents claim essentially that the respondent could be retried for aggravated murder because "... the state clearly is not proceeding against [respondent] on the theory that [respondent] himself committed or acted as an accomplice in the commission of aggravated arson," Petitioner's Appendix A27, and "Thus, collateral estoppel does not preclude a second trial on the issue of whether [respondent] was an accomplice to aggravated murder where the principals Carabbia and Ferritto committed the underlying aggravated arson to accomplish the killing and thereby achieved the goal of all the co-conspirators." Petitioner's Appendix A29.

Regrettably, the dissenting opinions ignore the instructions of the trial court. The trial court charged the jury, in pertinent part, as follows:

Now, for a person to be criminally liable as an accomplice or of complicity in the commission of an

offense, the court says that it must be established that the offense charged has been actually committed, and that while acting with the kind of culpability or blameworthy state of mind required for the commission of the offense, the accused, one, must have aided and abetted another or others in committing the offense, and/or two, must have conspired with another or others to commit the offense.

Accordingly, you are instructed that a person who, acting purposely, does aid, help, assist, encourage, direct or associate himself with another or others for the purpose of committing or in the commission of an offense, is regarded as if he were the principal offender, and is just as guilty as if he performed every act constituting the offense; and that is true even if such person was not physically present at the time the offense was committed. . . .

Then you are further instructed that when two or more persons have a common purpose to commit a crime, and one does one part and a second or a second and a third and/or more persons perform another, those persons acting together are equally guilty of the crime [TR. 966-968].¹

Further, the court says that a conspiracy is an undertaking or agreement by two or more persons to carry out a common objective to commit a criminal act. The commission of such an undertaking or agreement may be shown either by direct evidence or by inference from the facts and circumstances in evidence. *Those who associate to perform the criminal act and who know and share the objective and participate*

1. References to "TR" are to the transcript of the trial proceedings in the Court of Common Pleas of Cuyahoga County, Ohio.

to some extent are bound by the acts of any one of their number in carrying out the purpose of the conspiracy

Now, one may become a member of a conspiracy without full knowledge of all the details of the conspiracy

Before a person may be found to have become a member of a conspiracy, the evidence must show beyond a reasonable doubt that the conspiracy was knowingly formed, and that the defendant, or other persons who are claimed to have been members, willfully participated in the unlawful plan *with the intent to advance or further the object or purpose of the conspiracy.*

However, *when it is made to appear beyond a reasonable doubt from the evidence that a conspiracy existed to commit a specific crime, and that an accused was one of the members, then the statements thereafter knowingly made and the acts thereafter knowingly done by any person likewise found to be a member, may be considered as evidence in the case as to the accused found to have been a member, even though the statements and acts may have occurred in the absence and without the knowledge, or the full knowledge of the accused, provided such statements and acts were knowingly made and done during the continuance of such conspiracy, and in furtherance of the crime which was the object or purpose of the conspiracy [T. 968-973] (emphasis added).*

The court further incorporated both the complicity and conspiracy principles into its specific instructions on aggravated murder and instructed the jury that one essential element to be found was that the aggravated murder

was committed during the commission of aggravated arson. The court then repeated its instructions on aiding and abetting, complicity, and conspiracy in relation to its instructions on purpose and intent.

The Supreme Court of Ohio quoted these instructions as related to the charge on aggravated murder and aggravated arson. See Petitioner's Appendix A2 and A3. The Court of Appeals of Cuyahoga County included lengthy quotations from the verbatim instructions to the jury on complicity and conspiracy in its opinion. See Petitioner's Appendix A12 through A14.

The petitioner's argument ignores the obvious and the practical: in order to convict the respondent of aggravated murder, the state must necessarily relitigate the means used to murder Daniel Greene, namely, aggravated arson. The dissenting opinion of the Supreme Court of Ohio argued:

The central question on appeal is whether the state must prove that [respondent] committed aggravated arson in order to convict him for aggravated murder. In my opinion, it is not necessary to do so here. Petitioner's Appendix A5.

How then does the state intend to show the cause or means of death, an essential element of aggravated murder? Aggravated arson is the vehicle by which the State of Ohio must prove aggravated murder. Additionally, the respondent's culpability for aggravated murder was tried identically to his culpability for aggravated arson. As the Supreme Court of Ohio noted in its majority opinion:

Then to sustain the charge of Aggravated Murder, the acts proximately causing the purposeful death must

have been performed—as an aider and abettor, and/or as a co-conspirator—the defendant was committing complicity in the commission of Aggravated Arson
[Citing the instructions of the trial court.]

Apparently, the State of Ohio is asking for an opportunity to retry the respondent absent reference to his involvement in the aggravated arson. However, this ignores the instructions of the trial court quoted hereinbefore which held the respondent criminally liable for the acts of his co-conspirators in furtherance of this alleged goal, whether or not those acts and means employed were specifically known to the respondent.

Hence, the respondent has been prosecuted on the charge of aggravated murder with instructions including culpability both with and without actual knowledge of the means used to cause death.

The petitioner also urges in its third argument that the reviewing court should seek to determine if the jury could have founded its verdict on a rational basis that would not preclude retrial. However, the petitioner itself fails to provide that novel ground in its arguments before the court and despite the fact that it too was a party-litigant at trial. Respondent submits this is so because no alternate rational basis exists upon which the jury could have founded its verdict. To the contrary, the instructions of the trial court exhausted every conceivable theory of guilt upon which the respondent was culpable. Despite this, the jury concluded, by virtue of its verdict on aggravated arson, that the respondent was not involved in the crime charged on any theory of criminal responsibility.

CONCLUSION

This case has been properly reviewed by two courts of appeal, both of which held in favor of the respondent, Anthony Liberatore. The petitioner fails to provide a new theory of culpability upon which to force the respondent to again defend himself. All possible theories of culpability have been litigated by a jury in favor of the respondent. Two appellate courts have exhaustively analyzed the record for evidence, facts and arguments of counsel and have properly applied the well-established principles of this Court. The petitioner fails to provide adequate reasons for further review. The respondent has been once in jeopardy and retrial of his case is barred by the Double Jeopardy Clause of the Fifth Amendment and the doctrine of collateral estoppel. Therefore, the petition for a writ of certiorari should be denied.

Respectfully submitted,

ELMER A. GIULIANI, *Counsel of Record*

MARK R. DEVAN

410 Leader Building
Cleveland, Ohio 44114
(216) 241-0520

Attorneys for Respondent

APPENDIX

**Indictment, State of Ohio v. Thomas Lanci, et al.,
Cuyahoga County Common Pleas Court Case
No. CR 38130**

CUYAHOGA COUNTY COMMON PLEAS

THE STATE OF OHIO

A TRUE BILL INDICTMENT

VS.

FOR

THOMAS LANCI

AGGRAVATED ARSON

LOUIS J. ARATARI

R.C. 2909.02 W/CT

RENALDO GULIANI a.k.a

AGGRAVATED MURDER

RONALD ARTHUR GUILLES

R.C. 2903.01 With

KENNETH CIARCIA

SPECIFICATIONS

ANTHONY LIBERATORE

W/CT ENGAGING IN

ORGANIZED CRIME

R.C. 2923.04

Dates of Offense

The Term of

Case No.

October 6th, 1977

January of 1978

38130

THE STATE OF OHIO,)

) SS.

CUYAHOGA COUNTY)

The Jurors of the Grand Jury of the State of Ohio, within and for the body of the County aforesaid, on their oaths, IN THE NAME AND BY THE AUTHORITY OF THE STATE OF OHIO, Do find and present, that the above named Defendant(s), on or about the date of the offense set forth above, in the County of Cuyahoga, unlawfully and purposely and by means of fire or explosion, knowingly created a substantial risk of physical harm to Daniel J. Greene,

contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

/s/ (Illegible)

/s/ JOHN T. CORRIGAN

Foreman of the Grand
Jury

Prosecuting Attorney

CUYAHOGA COUNTY COMMON PLEAS

THE STATE OF OHIO

A TRUE BILL INDICTMENT

VS.

FOR

THOMAS LANCI

AGGRAVATED MURDER

LOUIS J. ARATARI

R.C. 2903.01 With

RENALDO GULIANI a.k.a

SPECIFICATIONS

RONALD ARTHUR GUILLES

KENNETH CIARCIA

ANTHONY LIBERATORE

Dates of Offense

The Term of

Case No.

October 6th, 1977

January of 1978

THE STATE OF OHIO,)

) SS.

CUYAHOGA COUNTY)

The Jurors of the Grand Jury of the State of Ohio, within and for the body of the County aforesaid, on their oaths, IN THE NAME AND BY THE AUTHORITY OF THE STATE OF OHIO, Do find and present, that the above named Defendant(s), on or about the date of the offense set forth above, in the County of Cuyahoga, unlawfully and purposely caused the death of another, to-wit: Daniel J. Greene while committing or attempting to commit, or while fleeing immediately after committing or attempting to commit Aggravated Arson.

SPECIFICATION ONE:

The Grand Jurors further find and specify that the offense presented above was committed while the offender was committing or attempting to commit or fleeing immediately after committing or attempting to commit Aggravated Arson.

SPECIFICATION TWO:

The Grand Jurors further find and specify that the offender committed the offense presented above for hire,

contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

/s/ (Illegible)

Foreman of the Grand
Jury

/s/ JOHN T. CORRIGAN

Prosecuting Attorney

CUYAHOGA COUNTY COMMON PLEAS

THE STATE OF OHIO

VS.

A TRUE BILL INDICTMENT

FOR

THOMAS LANCI

ENGAGING IN ORGANIZED

LOUIS J. ARATARI

CRIME R.C. 2923.04

RENALDO GULIANI a.k.a

RONALD ARTHUR GUILLES

KENNETH CIARCIA

ANTHONY LIBERATORE

Date of Offense

The Term of

Case No.

October 6th, 1977

January of 1978

THE STATE OF OHIO,)

) SS.

CUYAHOGA COUNTY)

The Jurors of the Grand Jury of the State of Ohio, within and for the body of the County aforesaid, on their oaths, IN THE NAME AND BY THE AUTHORITY OF THE STATE OF OHIO, Do find and present, that the above named Defendant(s), on or about the date of the offense set forth above, in the County of Cuyahoga, unlawfully and purposely did, with purpose to establish or maintain a criminal syndicate or to facilitate its activities, commit, conspire, or attempt to commit or act as an accomplice in the commission of an offense of violence, to-wit: Aggravated Murder and Aggravated Arson, in violation of Section 2923.04 of the Ohio Revised Code,

contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

/s/ (Illegible)

/s/ JOHN T. CORRIGAN

Foreman of the Grand
Jury

Prosecuting Attorney

The Constitution of the State of Ohio**Article I §10 Trial for crimes; witness**

Except in cases of impeachment, cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and cases involving offenses for which the penalty provided is less than imprisonment in the penitentiary, no person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment or indictment of a grand jury; and the number of persons necessary to constitute such grand jury and the number thereof necessary to concur in finding such indictment shall be determined by law. In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed; but provision may be made by law for the taking of the deposition by the accused or by the state, to be used for or against the accused, of any witness whose attendance can not be had at the trial always securing to the accused means and the opportunity to be present in person and with counsel at the taking of such deposition, and to examine the witness face to face as fully and in the same manner as if in court. No person shall be compelled, in any criminal case, to be a witness against himself; but his failure to testify may be considered by the court and jury and may be the subject of comment by counsel. No person shall be twice put in jeopardy for the same offense.